UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,488	10/16/2001	William D. Swart	SEDN/12289	3105

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EXAMINER
NEWLIN, TIMOTHY R

ART UNIT	PAPER NUMBER
2424	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
09/977,488</td><td>Applicant(s)
SWART ET AL.</td></tr>
<tr><td>Examiner
Timothy R. Newlin</td><td>Art Unit
2424</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 October 2008*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-31* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this

application after appeal to the Board of Patent Appeals and Interferences, but prior to a

decision on the appeal. Since this application is eligible for continued examination

under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the

appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this

application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed

on 10/17/08 has been entered.

Response to Amendment

Applicant's arguments have been considered but are moot in view of the new

ground(s) of rejection.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-31 are rejected under 35 U.S.C. 103 (a) as unpatentable over Omoigui,

US 6,694,352 in view of Boyer et al., US 2002/0026496.

3.   Regarding claim 1, Omoigui discloses a computer readable medium, having

programming executable on a computer **[cols. 5 and 6]**, that provides program content

notification related to content available on a video and multimedia program content

distribution network, comprising:

a content availability notification module **[notification server 14, Fig. 1, col. 4,**

50-54; col. 13, 51-60];

a notification data reception module **[user interface unit 400, Fig. 7]**, coupled to

the content availability notification module, that receives and processes notification data

[col. 12, 48-50], wherein the notification data is used to formulate and transmit one or

more content availability notification messages **[col. 12, 45-48]**;

a content schedule and availability analysis module, coupled to the notification

data reception module, that receives and processes one or more of content schedule

and availability of the program content available on the video and multimedia program

content distribution network and user content download requests, and produces

processed schedule and availability data **[Analysis/Search Engine 22, Fig. 3, col. 7,**

53-63];

a content download request analysis module, coupled to the notification data

reception module, that processes data from the user download requests for formatting

and routing one or more content notification availability forms **[user interface**

processes and formats request data that is used to generate notifications, col. 12, 12-50].

a notification form builder, coupled to the content schedule and availability analysis module, that receives the processed schedule and availability data, and generates a notification form **[registration interface 20, Fig. 3 and 414, Fig. 8; col. 13, 1-48]**

a notification form router, coupled to the notification form builder, that routes notification data for transmission to a user **[notification data is routed to specific users by search engine 22 using client information database 28, cols. 7-8, lines 53-10]**; and

one or more notification modules that provide the program content notification **[notification server 14, Fig. 3]**.

Omoigui does not include an advertisement on the notification form. Boyer does teach including an advertisement placeholder in a notification email **[Fig. 6, para. 51]**. Omoigui discusses email reminders **[col. 13, l. 38]** and collects profile information on users **[e.g., col. 13, 1-16]**, as does Boyer. Given that the references are closely analogous and Omoigui's collection of profile information, it would have been obvious to one of ordinary skill that the notification form of Omoigui could be modified to include an ad placeholder as taught by Boyer. This would allow operators to leverage the profile information and the user's desire to view their reminder to promote additional programming tailored to the user's interests.

4.   Regarding claim 6, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided until an acknowledgement is received by the content availability notification module **[once notified, a user may acknowledge the notification by opting to view the live feed of the presentation, col. 2, 58-64]**. User input is provided at the user interface **[input application 410, Fig. 7]**.

5.   Regarding claim 7, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided continually **[users are continuously updated, col. 11, 55-59]**.

6.   Regarding claim 8, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided periodically **[col. 9, 31-36]**.

7.   Regarding claim 9, Omoigui discloses a means and a computer readable medium wherein the one or more notification modules provide the program content notification **[notification server 14, Fig. 3]**

8.   Regarding claim 10, Omoigui discloses a means and a computer readable medium further comprising a user data analysis module, coupled to the notification data reception module that receives and processes user profile data **[step 600, Fig. 6, col. 10, 54-67]**.

9.   Regarding claim 11, Omoigui discloses a means and a computer readable

medium of claim 1, wherein the notification data are contained in a program content

download request **[user can include notification parameters in a request to**

download (i.e. record) program content, col. 14, 45-50].

10.   Regarding claim 12 , Omoigui discloses a means and a computer readable

medium further comprising a user's profile and history file, wherein the notification data

are contained in the user's profile and history file **[step 600 includes profile and**

viewing history data, Fig. 6, col. 10, 54-67].

11.   Regarding claim 13, Omoigui discloses a computer readable medium wherein

the notification data includes the method of delivery of the program content notification

[notification method, Fig. 8].

12.   Regarding claims 2 and 21, Omoigui discloses a means and a computer

readable medium wherein the one or more notification modules comprise:

        a user terminal notification module that provides an on-screen notification **[e.g.,**

col. 12, 48-50; Fig. 9];

        an email notification module that provides an email notification **[email, box 422,**

Fig. 8];

a pager and wireless notification module that provides one of a voice and a text

notification message **[pager, box 422, Fig. 8]**; and

an instant messaging notification module that provides an instant text notification

message **[notification can be textual, col. 14, 21-24]**;

Omoigui does not teach phone message notifications. However, official notice is

taken that telephone message notification is a common and well-known technique of

conveying reminder or scheduling information. Moreover, Omoigui suggests the use of

an audio device such as a telephone when he states that notifications may be in an

audio format **[col. 14, line 23]**. Given the suggestion of Omoigui and the nature of the

telephone as a well-known medium to quickly reach customers, it would have been

obvious to one skilled in the art to modify Omoigui to explicitly provide for telephone

notification.

13.   Regarding claims 3 and 22, Omoigui discloses a means and computer readable

medium wherein the on-screen notification includes one or more of an on-screen pop up

window, an on-screen banner, an icon, and an audible message **[col. 11, 30-39]**.

14.   Regarding claim 4 and 23, Omoigui discloses means and a computer readable

medium wherein the on-screen notification is provided at one of a television and an

computer display **[cols. 3-4, lines 61-9]**.

15.   Regarding claims 5 and 24, Omoigui discloses a computer readable medium

wherein the on-screen notification includes a hyperlink to one or more programs **[col.**

10, 29-44].

16.   Regarding claim 14, Omoigui discloses a method **[for method flow chart, see**

Fig. 6], for notifying users of availability of video and digital multimedia program content

in a video and multimedia program content distribution network, comprising:

        receiving a program content request, wherein the request specifies desired

program content for delivery to a user terminal **[col. 10, 8-28]**;

        receiving information related to availability of the desired program content **[cols.**

4-5, 41-9];

        determining a notification protocol to notify the user terminal of the availability of

the desired program content **[col. 12, 12-21]**;

        analyzing the information related to the availability of the desired program

content; generating a notification form; and routing the notification form to one or more

notification modules, wherein the one or more notification modules transmit a program

content availability notification **[analyis/search engine 22, Fig. 3, col. 7, 53-63**;

        Omoigui does not explicitly state that the source of programming is a television

headend. However, he does describe a communications network which can include a

private, wide area network, set-top boxes at the client site, and a source that can run

programming including television broadcasts **[cols. 3-4, 55-4; col. 9, 28-31]**. One of

ordinary skill would readily recognize that a cable television headend fits this description

and therefore is or at least could be included in the system taught by Omoigui. In other words, it would be obvious that Omoigui could be implemented in an existing cable network that relies on a headend. For obvious reasons of cost and time, one would not want to create a new network to implement Omoigui but would use existing, well-known cable networks including headends to implement the system.

Omoigui does not include an advertisement on the notification form. Boyer does teach including an advertisement placeholder in a notification email **[Fig. 6, para. 51]**. Omoigui discusses email reminders **[col. 13, l. 38]** and collects profile information on users **[e.g., col. 13, 1-16]**, as does Boyer. Given that the references are closely analogous and Omoigui's collection of profile information, it would have been obvious to one of ordinary skill that the notification form of Omoigui could be modified to include an ad placeholder as taught by Boyer. This would allow operators to leverage the profile information and the user's desire to view their reminder to promote additional programming tailored to the user's interests.

17.   Regarding claim 15, Omoigui discloses a method wherein the step of determining the notification protocol comprises analyzing a user history and profile file **[step 600, Fig. 6, col. 10, 54-67; also see Fig 8., wherein registration interface includes a box 422 where the user can specify a profile in terms of notification protocol]**.

18.   Regarding claims 16 and 29, Omoigui discloses a means and a computer readable medium of claim 1, wherein the notification data are contained in a program

content download request **[user can include notification parameters in a request to download (i.e. record) program content, col. 14, 45-50]**.

19.   Regarding claim 17, Omoigui discloses a method wherein the notification protocol comprises one or more of delivery of an on-screen prompt, an email message, a wireless message, an instant text message, an audio message, and an automated telephone message **[col. 14, 15-24; col. 13, 35-39]**.

20.   Regarding claims 18, 19, and 25, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided until an acknowledgement is received by the content availability notification module **[once notified, a user may acknowledge the notification by opting to view the live feed of the presentation, col. 2, 58-64]**. User input is provided at the user interface **[input application 410, Fig. 7]**.

21.   Regarding claim 20, Omoigui discloses a system that provides program content notification related to content available on a video and multimedia program content distribution network, comprising:

        means for receiving program notification data wherein the receiving means receives and processes notification data **[col. 12, 48-50]**, wherein the notification data is used to formulate and transmit one or more content availability notification messages **[col. 12, 45-48]**;

means for analyzing program content schedule and availability, coupled to the

receiving means, wherein the means for analyzing program content schedule and

availability receives and processes one or more of content schedule and availability of

the program content available on the video and multimedia program content distribution

network and user content download requests, and produces processed schedule and

availability data **[Analysis/Search Engine 22, Fig. 3, col. 7, 53-63]**;

means for analyzing a program content download request, coupled to the

receiving means, wherein the means for analyzing a program content download request

processes data from the user download requests for formatting and routing one or more

content notification availability forms **[user interface processes and formats request

data that is used to generate notifications, col. 12, 12-50]**;

means for generating a notification form, coupled to the means for analyzing

content schedule and availability, wherein the generating means receives the processed

schedule and availability data, and generates a notification form **[registration interface

20, Fig. 3 and 414, Fig. 8; col. 13, 1-48]**;

means for routing the notification form, coupled to the generating means, wherein

the routing means routes notification data for transmission to a user **[notification data

is routed to specific users by search engine 22 using client information database

28, cols. 7-8, lines 53-10]**; and

means for providing the program content notification **[notification server 14,

Fig. 3]**.

Omoigui does not explicitly state that the source of programming is a television

headend. However, he does describe a communications network which can include a

private, wide area network, set-top boxes at the client site, and a source that can run

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ad placeholder as taught by Boyer. This would allow operators to leverage the profile

information and the user's desire to view their reminder to promote additional

programming tailored to the user's interests.

22.   Regarding claim 26, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided continually **[users are continuously updated, col. 11, 55-59]**.

23.   Regarding claim 27, Omoigui discloses a means and a computer readable medium wherein the program content notification is provided periodically **[col. 9, 31-36]**.

24.   Regarding claim 28, Omoigui discloses a means and a computer readable medium further comprising a user data analysis module, coupled to the notification data reception module that receives and processes user profile data **[step 600, Fig. 6, col. 10, 54-67]**.

25.   Regarding claim 30, Omoigui discloses a means and a computer readable medium further comprising a user's profile and history file, wherein the notification data are contained in the user's profile and history file **[step 600 includes profile and viewing history data, Fig. 6, col. 10, 54-67]**.

26.   Regarding claim 31, Omoigui discloses a computer readable medium wherein the notification data includes the method of delivery of the program content notification **[notification method, Fig. 8]**.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art
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TRN